



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

DEC 17 2009

REPLY TO THE ATTENTION OF:

S-6J

Mr. Paul Kysel
Vice-President
People in Need of Environmental Safety (P.I.N.E.S.)

Exemption 6

Dear Mr. Kysel:

Thank you for your correspondence of November 23, 2009, to U.S. Environmental Protection Agency Administrator Lisa Jackson. I have been asked by the Administrator to respond to your letter.

As you state in your letter, Technical Assistance Plans (TAPs) were a newer concept in EPA's Region 5, when funds were first made available to P.I.N.E.S. by the Pines Site potentially responsible parties (PRPs). TAPs, like EPA Technical Assistance Grants (TAGs), are a way for EPA to support the ability of community groups to understand the Superfund process. Community groups that qualify for TAGs are awarded an initial amount of up to \$50,000. If the group qualifies for additional funding under TAG guidance, supplemental amounts, typically \$50,000 or less, are awarded by EPA. TAGs are available at sites that are proposed for or listed on the National Priorities List (NPL).

The Superfund Alternative approach process, which is used at the Pines Site, is designed to mirror the process at sites listed on the NPL. Just as for sites receiving TAGs, an initial amount of \$50,000 was awarded to P.I.N.E.S. by the PRPs with language that would allow for additional funding under certain conditions. The scope of work and budget developed by P.I.N.E.S. and agreed to by the PRPs as a part of the TAP agreement only addressed this initial \$50,000. Based on the language in the original TAP agreement between P.I.N.E.S. and the Site PRPs, once the initial funding was exhausted P.I.N.E.S. did not qualify for additional monies. EPA notified P.I.N.E.S. that EPA could not require additional funds from the PRPs for the TAP under the existing TAP agreement.

Many TAGs in EPA's Region 5, six-state area that includes Indiana, receive a second funding amount of \$50,000. EPA recognized that the Pines Site TAP agreement needed additional flexibility and worked with the PRPs to modify the TAP agreement. Once the TAP agreement was modified and signed by P.I.N.E.S. and the PRPs, additional money could then be made available. There was, however, no agreement at the time between P.I.N.E.S. and the PRPs on a scope of work and budget beyond the initial \$50,000. In a TAG, EPA would likewise not be able to fund a community group before approval of the scope of work and associated budget. P.I.N.E.S. submitted a bill to the PRPs for \$86,400 in costs from your technical advisor for work performed during the unfunded period. Although EPA cannot require the PRPs to reimburse costs accrued during the unfunded period, since the TAP Agreement is a two-party agreement between the PRPs and P.I.N.E.S., EPA has no objection to P.I.N.E.S. and the PRPs reaching an agreement regarding some reimbursement for the unfunded period.

EPA can assist P.I.N.E.S. and the site PRPs on the development of a scope of work and budget for P.I.N.E.S. that reflects the necessary review of any remaining RI/FS documents, and not necessarily just work on the upcoming risk assessment. EPA will work closely with both the PRPs and P.I.N.E.S., to ensure that there are no future budgeting issues.

With regard to the extent of work performed by the P.I.N.E.S. technical advisor, including the site groundwater model, a mathematical model was never a requirement of the Pines Site RI/FS. That the P.I.N.E.S. consultant intensively reviewed the model was unfortunate. Had a scope of work and budget been in place, this could have been avoided. Ultimately, it is the primary responsibility of EPA, and not the obligation of the community group, to ensure that documents generated as a part of the RI/FS result in adequate protection of human health and the environment. The community group has the responsibility to work within their budget to assist the community in their understanding of the Superfund process.

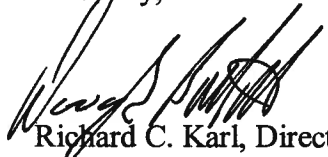
EPA apologizes for the amount of time it took to reach a conclusion with respect to the \$86,400 bill presented to P.I.N.E.S. from their consultant for expenses accrued during the unfunded period. EPA consulted extensively with its TAG experts and legal counsel, both within Region 5 and with agency Headquarters, before reaching the conclusions within the August 24, 2009, letter from EPA to P.I.N.E.S.

Communicating with the community during the characterization, and when necessary, remediation of contaminated sites in our neighborhoods, is a task that EPA takes very seriously. EPA looks forward to working through this funding issue with P.I.N.E.S. and the PRPs. EPA can assist P.I.N.E.S. in monitoring the hours of your technical advisor and the use of your funds so that you do not run out of funds before the conclusion of the Superfund process because additional funds may not be available.

EPA will continue to work closely with P.I.N.E.S. toward the conclusion of the Pines Site RI/FS process and any EPA remedial decisions. We look forward to P.I.N.E.S. continued commitment and pledge our commitment to P.I.N.E.S. and the community resolving concerns associated with the Pines Site.

Again, thank you for your letter. If you have further questions, please contact me, or your staff may contact Tim Drexler of my staff, at 312/353-4367.

Sincerely,



Richard C. Karl, Director
for Superfund Division

